

REMARKS

Claims 25-58 are pending in the application. Claims 29-32 and 36-58 were previously withdrawn. Claim 25 has been amended to clarify the subject matter of the invention. No new matter is believed to have been added.

REJECTIONS UNDER 35 U.S.C. § 112

The Office Action has rejected claims 25-28 and 33-35 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Office Action states that claim 25 contains subject matter not described in the specification. Additionally, the Office Action has rejected these claims under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees for the following reasons.

While not conceding that claim 25 and the claims dependent therefrom fail to satisfy the written description requirement under 35 U.S.C. § 112, first paragraph, or are indefinite, Applicant has amended claim 25 to recite a “solidified foamed material”. Support for this language can be found in paragraph [0016], and in particular in the last sentence of paragraph [0016] of U.S. Patent Publication No. 2006/0127663A1 (the published application). Applicant maintains that the amendment to claim 25 is supported by the specification, and is thus not new matter. Applicant also maintains that the amended language is clear and definite.

In addition, the amendment to claim 25 further distinguishes the present invention from the art. An exemplary photomicrograph of a solidified foamed material of the present invention is attached as Appendix A. The solidified foamed material illustrated in Appendix A consists of a pure solidified sugar plus residual surfactant at ambient temperature, prepared in accordance with the claims and specification of the present application. Prior to expansion, the inventive composition was 90 % sugar in water solution (K1), propane (K2), and Agnique 264 (K3) at a temperature of 100 °C and pressure of 250 bar (close to but above the critical point of pure

propane). Thus, for example, the solidified foamed material of the present invention are manifestations of gas inside and solid material outside.

In contrast, Nielsen produces a spray of liquid droplets in gas, where the gas is outside, and which may allegedly form an intermediate foam. The material of Nielsen later solidifies to a flat coating, and if solidified is no longer a foam, if such a foam existed at all. Nielsen does not produce a solidified foam as described in the current application. Thus, Nielsen fails to disclose a solidified foamed material.

In view of the amendment and remarks made herein, Applicant maintains that claim 25 and the claims dependent therefrom (i.e., claims 25-28 and 33-35) satisfy the requirements of both the first and second paragraphs of 35 U.S.C. § 112. Accordingly, these rejections should be withdrawn.

CONCLUSION

Applicant requests entry of the amendment and consideration of the remarks enclosed herein. A three-month statutory period was set for response nominally ending March 1, 2010. Enclosed herewith is a Request for Three-Month Extension of Time, which extends the due date to June 1, 2010. Therefore, this paper is timely.

Payment via credit card via EFS web filing in the amount of \$ 1,110.00 for the Three-Month Extension of Time for a large entity is enclosed herewith. No further fee is believed due; however, the Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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Attached: Appendix A

Appendix A: Photomicrograph of Exemplary Solidified Foamed Material

